

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT AND EL CAMINO REAL
CHARTER HIGH SCHOOL

OAH CASE NO. 2012080438

ORDER TO SHOW CAUSE WHY
CASE SHOULD NOT BE DISMISSED,
AND CONTINUING PREHEARING
CONFERENCE AND HEARING

On September 7, 2012, Student filed the First Amended Complaint in this matter. On October 19, 2012, the parties filed a first stipulated request for a short continuance of the hearing dates on the First Amended Complaint. On October 22, 2012, the request was granted and the matter set for Prehearing Conference on November 26, 2012 at 1:30 PM and Due Process Hearing on December 3-5, 2012, at 1:30 PM the first day, 9:00 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge. On November 20, 2012, OAH contacted the parties requesting information as to the status of the case. OAH was informed by District that the matter had been settled but had not been dismissed by Student's counsel, who was on vacation and would file a dismissal once she returned. Student's counsel did not respond to OAH's voicemail message requesting an update.

Based on the record in this case, it appears that the matter has been resolved but that Student's counsel failed to request a dismissal of the complaint.

Under the reauthorized Individuals with Disabilities Education Improvement Act (IDEA), a hearing must be conducted and a decision rendered within 45 days following a 30-day resolution period, after receipt of Student's due process notice, in the absence of an extension. (See Ed. Code §§ 56502, subd. (f), and 56505, subd. (f)(3).) Given the short time frames applicable to this case, it is critical that parties and their representatives participate in advancing the matter to hearing. Absent receipt of notification from Student withdrawing his request for a hearing or agreeing to dismiss his case, the parties must be prepared for a hearing as currently scheduled, and OAH is obligated to hold a PHC and due process hearing.

If this matter was fully resolved against the District, Student must file a written request with OAH asking that the matter be closed. On the other hand, if the case is not resolved and Student desires a hearing on the merit on all issues, parties must be prepared for a hearing.

At this time, OAH has not received any letter or other communication from Student's counsel indicating that the matter should be closed or dismissed. Also, neither party filed PHC statements prior to the PHC, as ordered in the OAH scheduling order of August 24, 2012. Thus, it is unclear if the Student intends to prosecute this matter, or if a dismissal will be sought.

Therefore, the following Orders are issued:

1. **Order to Show Cause:** Unless a dismissal is filed prior thereto, both parties are ordered to appear telephonically on December 3, 2012, at 1:30 PM for a telephonic Order to Show Cause (OSC) conference. **OAH will initiate the telephone call.** At the OSC conference, Student must show cause, if any, as to why the above-entitled case should not be dismissed for failure to prosecute it. If Student fails to appear for the OSC conference, then Student's due process hearing request will be considered abandoned and will be dismissed for failure to prosecute.
2. **Order Continuing PHC:** The PHC scheduled for November 26, 2012, at 1:30 PM is vacated. If Student shows sufficient cause why the matter should not be dismissed, the continued PHC will occur after the OSC conference on December 3, 2012, at 1:30 PM.
3. **Order Vacating Due Process Hearing Date:** The current hearing date of December 3, 2012 is vacated. The due process hearing is continued and shall commence on December 4, 2012, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: November 26, 2012

/s/

JUNE R. LEHRMAN
Administrative Law Judge
Office of Administrative Hearings